

PART 1703—PUBLIC INFORMATION AND REQUESTS

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AUTHORITY: 5 U.S.C. 552; Executive Order 12600, 3 CFR, 1987 Comp., p. 235; 42 U.S.C. 2286, 2286b(c).

SOURCE: 56 FR 21261, May 8, 1991, unless otherwise noted.

§ 1703.101 Scope.

This part contains the Board's regulations implementing the Freedom of Information Act, 5 U.S.C. 552.

§ 1703.102 Definitions; words denoting number, gender and tense.

Agency record is a record in the possession and control of the Board that is associated with Board business. Agency records do not include records such as:

(1) Publicly available books, periodicals, or other publications that are owned or copyrighted by non-federal sources;

(2) Records solely in the possession and control of Board contractors;

(3) Personal records in the possession of Board personnel that have not been circulated, were not required by the Board to be created or retained, and may be retained or discarded at the author's sole discretion. In determining whether such records are agency records the Board shall consider whether, and to what extent, the records were used in agency business;

(4) Records of a personal nature that are not associated with any Board business; or

(5) Non-substantive information in the calendar or schedule books of the Chairman or Members, uncirculated except for typing or recording purposes.

Board means the Defense Nuclear Facilities Safety Board.

Chairman means the Chairman of the Board.

Designated FOIA Officer means the person designated by the Board to administer the Board's activities pursuant to the regulations in this part. The Designated FOIA Officer shall also be the Board officer having custody of or responsibility for agency records in the possession of the Board and shall be the Board officer responsible for authorizing or denying production of records upon requests filed pursuant to § 1703.105.

General Counsel means the chief legal officer of the Board.

General Manager means the chief administrative officer of the Board.

Member means a Member of the Board.

In determining the meaning of any provision of this part, unless the context indicates otherwise: the singular includes the plural; the plural includes the singular; the present tense includes the future tense; and words of one gender include the other gender.

§ 1703.103 Requests for board records available through the public reading room.

(a) A Public Reading Room will be maintained at the Board's headquarters and will be open between 8:30 a.m. and 4:30 p.m. Mondays through Fridays, with the exception of legal holidays. Documents may be obtained in person or by written or telephonic request from the Public Reading Room by reasonably describing the records sought. The purpose of the Public Reading Room is to provide easy accessibility to a substantial portion of the Board's records. The Board considers that documents available through the Public Reading Room have been placed in the public domain.

(b) The public records of the Board that are available for inspection and copying upon request in the Public Reading Room include:

(1) The Board's rules and regulations;

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(2) Statements of policy adopted by the Board.

(3) Board recommendations; the Secretary of Energy's response, any final decision, and implementation plans regarding Board recommendations; and interested person's comments, data, views, or arguments to the Board concerning its recommendations and the Secretary of Energy's response and final decision;

(4) Transcripts of public hearings and any Board correspondence related thereto;

(5) Recordings or transcripts of Board meetings that were closed under 10 CFR part 1704, where the Board subsequently determines under 10 CFR 1704.9 that the recordings or transcripts may be made publicly available;

(6) Board orders, decisions, notices, and other actions in a public hearing;

(7) Board correspondence, except that which is exempt from mandatory public disclosure under § 1703.104;

(8) Copies of the filings, certifications, pleadings, records, briefs, orders, judgments, decrees, and mandates in court proceedings to which the Board is a party and the correspondence with the courts or clerks of court;

(9) Those of the Board's Administrative Directives that affect members of the public;

(10) Index of the documents identified in this section, but not including drafts thereof; and

(11) Annual reports to Congress in which the Board's operations during a past fiscal year are described.

(12) Copies of records released pursuant to FOIA requests, along with an index to these records. The format will generally be the same as the format of the released records.

[56 FR 21261, May 8, 1991, as amended at 62 FR 66815, Dec. 22, 1997]

§ 1703.104 Board records exempt from public disclosure.

The following records are exempt from public disclosure:

(a)(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(2) Which are in fact properly classified pursuant to such Executive Order;

(b) Records related solely to the internal personnel rules and practices of an agency;

(c) Records specifically exempted from disclosure by statute, provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Interagency or intraagency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Board;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings,

(2) Would deprive a person of a right to a fair trial or an impartial adjudication,

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(4) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such